THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18167 of 2007

Dated:20.09.2007

Between:

Uppala Chennakesavulu, S/o.Venkateswarlu.

…Petitioner

and

The Principal Secretary,
Department of Panchayat Raj & Rural Development,
Government of Andhra Pradesh, Secretariat,
Hyderabad,
and others.

…Respondents

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ORDER:

The petitioner was Sarpanch of Nagaram Gram Panchayat during the period 1995-2000. The second respondent initiated action against the petitioner for recovery of a sum of Rs.1,28,405/- alleging that the petitioner misappropriated the said amount sanctioned under Jawahar Rojgar Yojana (JRY) scheme. A show cause notice dated 10.01.2003 was issued. The second respondent also directed the fifth respondent to file a complaint against the petitioner before the Station House Officer. The petitioner submitted explanation on 18.03.2006 to respondents 2 to 4 alleging that the fifth respondent who was asked to enquire into the matter may be changed, as the fifth respondent did not make the record available to the petitioner. Nonetheless, the second respondent passed proceedings dated 28.04.2006 under Section 265(2) of the Andhra Pradesh Panchayat Raj Act, 1994 (the Act, for brevity), ordering recovery of a sum of Rs.78,807/- from the petitioner as arrears of the land revenue. The fifth respondent was authorized to recover the amount from the petitioner.

Aggrieved by the recovery proceedings of the second respondent, the petitioner filed W.P.No.17684 of 2006 before this Court. The same

was disposed of by this Court on 25.08.2006 giving liberty to the petitioner to prefer an appeal under Section 265(3) of the Act before the first respondent. In furtherance thereof, the petitioner filed an appeal, which has been dismissed by G.O.Rt.No.632, dated 01.05.2007. In this Writ Petition, the same is assailed as arbitrary and illegal.

Learned Counsel for the petitioner submits that the impugned order passed by the second respondent as confirmed by the first respondent violates the principles of natural justice. He would urge that though the petitioner requested, the second respondent did not submit the copy of the enquiry report of the fifth respondent, and placing reliance on the report obtained behind the back of the petitioner, is unsustainable. Nextly, he contends that the expenditure incurred by the petitioner for extension of Gram Panchayat Office building under JRY scheme are supported by all the vouchers, but the same were not considered by the second respondent while passing the order for recovery.

The submission of the petitioner that respondents 1 and 2 did not verify the Gram Panchayat records like M-Books and other relevant work statements cannot be accepted. When the District Collector asked the fifth respondent to verify whether there are any M-Books and submit a report, the fifth respondent verified the records and submitted a report to the effect that the petitioner misappropriated JRY funds to a tune of Rs.66,960/- and TFC* funds to a tune of Rs.11,847/-. This was done after issuing a show cause notice and obtaining a reply from the petitioner, who placed strong reliance on M-Books and other records in support of his plea for exoneration. This only shows that the second respondent has arrived at the facts after verifying all the records, and action taken cannot be faulted. Again when the matter was heard by the first respondent on 12.03.2007, an opportunity was given to the petitioner to produce the records. As seen from the impugned order, the petitioner did not produce any further records for verification, and therefore, the conclusion of the appellate authority is unassailable. The plea that principles of natural justice are violated cannot be accepted. When the petitioner in his explanation referred to M-Books, they were got verified by the Extension Officer only to help the petitioner. The report of the Extension Officer was not the only background for the impugned order passed by the second respondent.

The Writ Petition is misconceived, and the same is accordingly dismissed. No costs.

(V.V.S.RAO, J)

20.09.2007
vs

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* – X Finance Commission